

## Message Text

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44

ACTION L-03

INFO OCT-01 EUR-25 NEA-10 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 NSAE-00

NSC-10 PA-03 RSC-01 PRS-01 SPC-03 SS-15 ACDA-19 IO-13

CAB-09 COME-00 EB-11 FAA-00 AF-10 ARA-16 EA-11 SY-10

SCA-01 JUSE-00 DOTE-00 OIC-04 DRC-01 /197 W

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O R 161415Z SEP 73

FM AMEMBASSY ROME

TO SECSTATE WASHDC IMMEDIATE 787

INFO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

AMEMBASSY TEL AVIV

AMCONSUL MONTREAL

USUN NEW YORK 1714

C O N F I D E N T I A L ROME 9682

E.O. 11652: GDS

TAGS: ICAO ETRN

SUBJECT: ICAO AIR SECURITY CONFERENCE: STATE ACTS ISSUE.

MONTREAL FOR US REP ICAO

PLS PASS: LITTELL/CAB; DRISCOLL/DOT; STEWART/FAA

REF: (A) STATE 182884; (B) ROME 9614

1. PACE OF PROCEEDINGS IN FINAL MEETING OF ASSEMBLY EXECUTIVE COMMITTEE SEPT. 15 PERMITTED ONLY FIFTEEN MINUTES DEBATE AND CONSIDERATION OF STATE ACTS FORMULATION PROPOSED BY UK/SWISS/FRENCH TRANSMITTED PARA 1 REF (B).

2. ISRAELI AMBASSADOR NAJAR (FOR OBVIOUS TACTICAL REASONS)

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INTERVENED TO SAY FORMULATION WAS EXTREMELY BROAD AND WOULD

EXTEND TO ALL TYPES OF ACTS AND OMISSIONS. PRIVATELY ISRAELIS TOLD US, AS REPORTED IN PREVIOUS TELEGRAMS, THEY WERE EXTREMELY CONCERNED ABOUT FORMULATION AND URGED REPEATEDLY THAT WE MAKE BEST EFFORTS TO BALANCE IT.

3. AMBASSADOR ROUNTREE INTERVENED AND MADE FOLLOWING STATEMENT:

QTE MY DELEGATION APPRECIATES THE COMPLEXITY OF THE SUBJECT OF INTERFERENCE WITH CIVIL AVIATION ARISING FROM STATE CONDUCT. EARLY IN THESE MEETINGS I REITERATED MY GOVERNMENT'S STRONG OPPOSITION TO SUCH INTERFERENCE. WE BELIEVE THAT IF ANY FORMULATION ON THIS ISSUE IS TO BE PRODUCED, IT MUST BE COMPREHENSIVE AND ENCOMPASS ALL STATE CONDUCT GIVING RISE TO INTERFERENCE.

THIS WOULD NOT BE POSSIBLE UNDER THE CURRENTLY PROPOSED AMENDMENTS SINCE THE INCORPORATION OF THE HAGUE AND MONTREAL PROVISIONS INTO THE CHICAGO CONVENTION WOULD BE CONDITIONED UPON THE RATIFICATION OF THESE UNDERLYING CONVENTIONS BY TWO-THIRDS THE MEMBERSHIP OF ICAO.

THE PROVISION ON DIRECT STATE INTERFERENCE PROPOSED IN WP/15, HOWEVER, WOULD NOT BE SUBJECT TO THIS BURDENSOME REQUIREMENT.

ACCORDINGLY, IF ADOPTED, IT MIGHT ENTER INTO FORCE WELL BEFORE INCORPORATION OF THE MONTREAL PROVISIONS. THIS WOULD GIVE RISE TO AN UNBALANCED SITUATION WHICH WOULD BE UNACCEPTABLE TO MY DELEGATION. END QTE

4. FORMULATION WAS THEN CARRIED 46-0-36(US)(ISRAEL). ALSO ABSTAINING WERE ENTIRE SOVIET BLOC, NORDICS, AND A NUMBER OF LATIN AMERICANS AND AFRICANS.

5. IN DRAFTING GROUP TO WHICH FORMULATION WAS REFERRED IMMEDIATELY USDEL HUFFMAN MADE EFFORT BALANCE FORMULATION SO THAT FIRST SENTENCE WOULD READ: QTE SUBJECT TO THE PROVISIONS OF THE CHARTER OF THE UNITED NATIONS, OF THIS CONVENTION AND OF ANY AGREEMENT BETWEEN THE STATES CONCERNED, EACH CONTRACTING STATE UNDERTAKES REFRAIN FROM CONDUCT CAUSING INTERFERENCE BY

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FORCE OR THREAT OF FORCE WITH AN AIRCRAFT OF ANOTHER STATE. END QTE. THOUGH CHANGE WAS SOUGHT ON GROUNDS OF NEED CLARIFY SCOPE OF WORD "INTERFERE" EFFORTS WERE OPPOSED BY FRANCE AND KENYA AND SUPPORTED IN SUBSTANCE BY NETHERLANDS. CHAIRMAN (ARGENTINE), HOWEVER, RULED PROPOSAL OUT OF ORDER.

6. MAJORITY OF DRAFTING GROUP APPEARED MAKE RESERVATIONS CONCERNING FORMULATION WHICH WILL BE REPORTED TO ASSEMBLY

FOR VOTE (SHOWING RESERVATIONS) IN FOLLOWING FINAL FORM:

QTE SUBJECT TO THE PROVISIONS OF THE CHARTER OF THE UNITED NATIONS, OF THIS CONVENTION AND OF ANY AGREEMENT BETWEEN THE STATES CONCERNED, EACH CONTRACTING STATE UNDERTAKES NOT TO INTERFERE BY FORCE OR THREAT OF FORCE WITH AIRCRAFT OR WITH THE AIRPORTS OR AIR NAVIGATION FACILITIES OF ANOTHER STATE, NOTHING IN THIS ARTICLE SHALL BE TAKEN TO AUTHORIZE THE USE OF FORCE OR THREAT OF FORCE IN ANY CIRCUMSTANCES IN BREACH OF THE RULES OF INTERNATIONAL LAW. END QTE

7. IF ADOPTED (WHICH SEEMS MOST DOUBTFUL) FORMULATION WOULD BE ADDITIONAL ARTICLE TO BE INCLUDED IN NEW CHAPTER OF CHICAGO CONVENTION.

8. IN LIGHT INSTRUCTIONS REF (A) AND PREVIOUS, USDEL, UNLESS INSTRUCTED OTHERWISE, WILL ABSTAIN IN ASSEMBLY VOTE ON THIS FORMULATION WHICH MAY OCCUR SEPT. 17. USDEL ANTICIPATES CLEAR BLOCKING THIRD IN VOTE ON THIS ITEM SINCE ABSTENTION IN ASSEMBLY HERE SAME CONSEQUENCE AS NEGATIVE VOTES. VOLPE

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** COMMITTEE MEETINGS, AMENDMENTS, ANTIHIJACKING PROCEDURES, AVIATION AGREEMENTS  
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**Copy:** SINGLE  
**Draft Date:** 16 SEP 1973  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** morefirh  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Errors:** N/A  
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**Original Previous Classification:** n/a  
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**Page Count:** 3  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** (A) STATE 182884; (B) ROME 9614  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** morefirh  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 19 SEP 2001  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <19-Sep-2001 by freemaal>; APPROVED <05-Nov-2001 by morefirh>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** ICAO AIR SECURITY CONFERENCE: STATE ACTS ISSUE. MONTREAL FOR US REP ICAO  
**TAGS:** ETRN, ICAO  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005